

ASSEMBLY BILL

No. 966

Introduced by Committee on Public Employees, Retirement and Social Security (Hernandez (Chair), Fong (Vice Chair), Beall, and Torrico)

February 26, 2009

An act to amend Section 2610 of the Family Code, and to amend Sections 20037.6, 20037.7, 20037.8, 20037.9, 20037.10, 20037.11, 20037.12, 20039.5, 20069, 20164, 20195, 20221, 20228, 20281.5, 20305, 20475, 20479, 20636.1, 20962, 20967, 21117, 21118, 21252, 21264, 21296, 21753, 22839, 22864, 22960.15, 75006, 75028.5, and 75507 of, to add Sections 21310.5 and 75080.5 to, and to repeal Sections 20041 and 20043 of, the Government Code, relating to public employee benefits.

LEGISLATIVE COUNSEL'S DIGEST

AB 966, as introduced, Committee on Public Employees, Retirement and Social Security. Public employee benefits.

(1) The Public Employees' Retirement Law (PERL) creates the Public Employees' Retirement System (PERS), which provides a defined benefit to its members based on age at retirement, service, credit, and final compensation. PERL defines final compensation in this regard for members of certain state bargaining units who became a state member of the system on or after January 1, 2006, or January 1, 2007, with specified exceptions.

This bill would specify that the provisions described above apply to members in state bargaining units 1, 2, 3, 4, 7, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, and 21 who were employed by the state for the first time on or after January 1, 2006, or January 1, 2007.

(2) PERL requires that the entire compensation of a local member of PERS be used for the calculation of service rendered as an employee of the contracting agency for specified contracts, including contracts entered prior to July 1, 1952, that contained an election in this regard. PERL provides a definition of final compensation for a local member of the Public Employees' Retirement System in connection with this requirement.

This bill would delete these provisions.

(3) PERL permits officers, warrant officers, and enlisted personnel of the California National Guard to become members of PERS upon filing a written election and making the necessary contributions to the retirement fund. Existing law defines final compensation and state service in this regard. Existing law prohibits a National Guard member from receiving health care benefits under the Public Employees' Medical and Hospital Care Act based on his or her service with the California National Guard.

This bill would revise the definition of final compensation for a National Guard member to specify that it is the highest annual compensation that was earned during a consecutive 12-month period while rendering service with the California National Guard. The bill would also make technical changes, including revising the definition of state service with regard to a National Guard member to specify that it does not apply to qualification for health and dental benefits.

(4) PERL prescribes the period of limitation within which an action for adjustment of errors and omissions regarding payments into or out of the retirement fund must be filed, and generally sets that period at 3 years. The law provides that the period of limitation commences with the discovery of the erroneous payment in cases in which payment is erroneous because of death or remarriage, as specified.

This bill would provide in cases in which payment is erroneous because of death or remarriage, as described above, that the period of limitation is 10 years.

(5) PERL permits the Board of Directors of PERS to select, purchase, or acquire in the name of the system real property, improved or unimproved, and to construct or remodel, and equip, an office building, including appropriate satellite structures, as specified.

This bill would permit the Board of Directors of PERS to select, purchase, or acquire real property and to construct or remodel, and equip, business recovery centers in California for use by the system as

an alternate facility, emergency operations center, or data center that the board determines is appropriate for disaster preparedness.

(6) PERL requires every state agency, school employer, and the chief administrative officer of a contracting agency to provide immediate written notice to the Board of Directors of PERS of the change in status of any member resulting from transfer, promotion, leave of absence, resignation, reinstatement, dismissal, or death.

This bill would revise these provisions to provide that the notice be filed in the manner prescribed by PERS.

(7) PERL requires the Board of Directors of PERS to annually employ a certified public accountant, who is not in public employment, to audit the financial statements of this system.

This bill would specify that these provisions do not affect the ability of the State Auditor or the Department of Finance to conduct other types of audits of the system as otherwise authorized.

(8) PERL prohibits an employee who serves on a less than full-time basis from membership the Public Employees' Retirement System unless that person comes within specified exceptions. PERL provides an exception for a person whose employment is on a seasonal, limited-term, on-call, or other irregular basis, and the person works more than 125 days, or 1,000 hours within the fiscal year, as specified.

This bill would instead provide that an employee whose appointment or employment contract does not fix a term of full-time, continuous employment in excess of 6 months is excluded from PERS membership unless specified exceptions apply. Among those exceptions, the bill would provide that a position is not excluded if it requires service equivalent to an average of 20 hours a week for one year or longer. The bill would also revise the exception described above, regarding seasonal, limited-term, or on-call employment, to have it apply if the person completes 125 days or 1,000 hours, as specified.

(9) PERL permits a contracting agency to amend its contract with PERS without election among its employees, as specified, if the contracting agency has fully discharged obligations imposed on it with respect to the amendments, and if the amendment meets certain requirements, including that the amendments apply uniformly to a member in specified member classes.

This bill would include local safety officers and school safety members within the member classes to which the amendments must apply uniformly.

(10) PERL prohibits making a contract or contract amendment to provide retirement benefits for some, but not all members of specified membership classifications.

This bill would include local safety officers and school safety members within these classifications.

(11) PERL defines compensation earnable with respect to a school member of PERS, and in this regard, particularly defines payrate for noncertificated members for whom the normal work schedule is less than 40 hours a week. For the purpose of calculating retirement benefits based on part-time service, PERL requires that compensation earnable be taken as the compensation that would have been earnable if the employment had been on a full-time basis and the member had worked full time, except as specified.

This bill would redefine noncertificated members as classified members for these purposes and make clarifying changes in the definition of payrate in this context. The bill would specify that compensation earnable must also conform to other specified standards for members and school members.

(12) PERL requires that a state miscellaneous member or industrial member, other than a university member, or a local member of PERS be retired for service if he or she has elected to participate in partial service retirement, as specified, has been credited with 20 years of state service, and has attained normal retirement age.

This bill would eliminate the requirement of 20 years service credit for the purpose of these provisions.

(13) PERL requires that the effective date of a written application for retirement submitted to the board more than 9 months after the member's discontinuance of state service be determined by the Board of Administration of PERS consistent with criteria established for the correction of errors and omissions.

This bill would require that the effective date of a written application for retirement submitted to the board more than 9 months after the member's discontinuance of state service be the first day of the month in which the member's application is received at an office of the board or by an employee of PERS designated by the board.

(14) PERL provides for the preservation of the purchasing power of benefits through a system of adjustments in benefits based on changes in living costs. The law also establishes provisions to ensure the federal tax-exempt status of the system and to preserve the deferred treatment of federal income tax on public employer contributions to public

employee pensions. Existing federal law limits the amount a defined benefit plan may pay a participant annually, and requires that this limitation be adjusted annually by regulation to account for increases in the cost of living.

This bill would specify that the amount payable to a member, including any cost-of-living adjustments, is prohibited from exceeding the limit on annual benefit payments prescribed by federal law, and would incorporate specified provisions of federal law by reference. The bill would also make related changes.

(15) The Public Employees Medical and Hospital Care Act requires that 30 days prior to, or 30 days after, retirement and during the open enrollment period, a state employee enrolled in a flexible benefit plan administered by the state be given the option to enroll in a health benefit plan, as specified.

This bill would change the period described above to provide that a state employee may be given the option to enroll 30 days prior to, or 60 days following, retirement and during the open enrollment period.

(16) The Public Employees' Medical and Hospital Care Act requires that premiums charged for enrollment in a health benefit program reasonably reflect the cost of the benefits, provided that this does not limit the Board of Administration of PERS from adjusting premiums charged under any health benefit plan or contract to reflect regional variations in providing services, which adjustments are at the sole discretion of the board.

This bill would authorize the board to use reserves generated by one or more self-funded health benefit plans to reduce the premiums charged for enrollment in one or more separate self-funded health benefit plans offered by the board, as specified.

(17) The Judges' Retirement Law establishes the Judges' Retirement System to provide retirement benefits for retired judges. Existing law also establishes the Judges' Retirement System II Law for judges elected or appointed on or after November 9, 1994. Both of these laws provide for the payment of accrued allowances that remain unpaid at the time of the death of a judge pursuant to a specified order.

This bill would require that a person who is retired under the Judges' Retirement System who is again appointed or elected to serve as a judge reinstate from retirement and become a member of the system, as specified. The bill would also revise provisions governing the payment of accrued, unpaid allowances in both judges' retirement systems to provide for their payment to either the estate of the deceased or the duly

authorized representative of the estate when the court receives a court order appointing an executor, administrator, or personal representative. If the estate does not require probate, the bill would also authorize the payment to be made to a successor trustee, or to a beneficiary of the deceased named in a valid will, as applicable.

(18) The bill would also make technical changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2610 of the Family Code is amended to
2 read:

3 2610. (a) Except as provided in subdivision (b), the court shall
4 make whatever orders are necessary or appropriate to ensure that
5 each party receives the party's full community property share in
6 any retirement plan, whether public or private, including all
7 survivor and death benefits, including, but not limited to, any of
8 the following:

9 (1) Order the disposition of any retirement benefits payable
10 upon or after the death of either party in a manner consistent with
11 Section 2550.

12 (2) Order a party to elect a survivor benefit annuity or other
13 similar election for the benefit of the other party, as specified by
14 the court, in any case in which a retirement plan provides for such
15 an election, provided that no court shall order a retirement plan to
16 provide increased benefits determined on the basis of actuarial
17 value.

18 (3) Upon the agreement of the nonemployee spouse, order the
19 division of accumulated community property contributions and
20 service credit as provided in the following or similar enactments:

21 (A) ~~Article 1.2 2 (commencing with Section 21215)~~ 21290) of
22 Chapter 9 of Part 3 of Division 5 of Title 2 of the Government
23 Code.

24 (B) Chapter 12 (commencing with Section 22650) of Part 13
25 of the Education Code.

26 (C) Article 8.4 (commencing with Section 31685) of Chapter
27 3 of Part 3 of Division 4 of Title 3 of the Government Code.

28 (D) Article 2.5 (commencing with Section 75050) of Chapter
29 11 of Title 8 of the Government Code.

1 (E) Chapter 15 (commencing with Section 27400) of Part 14 of
2 the Education Code.

3 (4) Order a retirement plan to make payments directly to a
4 nonmember party of his or her community property interest in
5 retirement benefits.

6 (b) A court shall not make any order that requires a retirement
7 plan to do either of the following:

8 (1) Make payments in any manner that will result in an increase
9 in the amount of benefits provided by the plan.

10 (2) Make the payment of benefits to any party at any time before
11 the member retires, except as provided in paragraph (3) of
12 subdivision (a), unless the plan so provides.

13 (c) This section shall not be applied retroactively to payments
14 made by a retirement plan to any person who retired or died prior
15 to January 1, 1987, or to payments made to any person who retired
16 or died prior to June 1, 1988, for plans subject to paragraph (3) of
17 subdivision (a).

18 SEC. 2. Section 20037.6 of the Government Code is amended
19 to read:

20 20037.6. (a) Notwithstanding Sections 20035 and 20037, final
21 compensation for a person who *is employed by the state for the*
22 *first time and* becomes a state member of the system on or after
23 July 1, 2006, and is represented by State Bargaining Unit 2, means
24 the highest average annual compensation earnable by the member
25 during the consecutive 36-month period immediately preceding
26 the effective date of his or her retirement, or the date of his or her
27 last separation from state service if earlier, or during any other
28 period of 36 consecutive months during his or her state membership
29 that the member designates on the application for retirement.

30 (b) This section applies to service credit accrued while a member
31 of State Bargaining Unit 2.

32 (c) This section does not apply to:

33 (1) Former state employees who return to state employment
34 on or after July 1, 2006.

35 (2) State employees hired prior to July 1, 2006, who were subject
36 to Section 20281.5 during the first 24 months of state employment.

37 (3) State employees hired prior to July 1, 2006, who become
38 subject to representation by State Bargaining Unit 2 on or after
39 July 1, 2006.

(4) State employees on an approved leave of absence who return to active employment on or after July 1, 2006.

SEC. 3. Section 20037.7 of the Government Code is amended to read:

20037.7. (a) Notwithstanding Sections 20035 and 20037, final compensation for a person who *is employed by the state for the first time and* becomes a state member of the system on or after January 1, 2007, and is represented by State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21.

(c) This section does not apply to:

(1) Former state employees previously employed before January 1, 2007, who return to state employment on or after January 1, 2007.

(2) State employees hired prior to January 1, 2007, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to January 1, 2007, who become subject to representation by State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21 on or after January 1, 2007.

(4) State employees on an approved leave of absence employed before January 1, 2007, who return to active employment on or after January 1, 2007.

SEC. 4. Section 20037.8 of the Government Code is amended to read:

20037.8. (a) Notwithstanding Sections 20035 and 20037, final compensation for a person who *is employed by the state for the first time and* becomes a state member of the system on or after January 1, 2007, and is represented by State Bargaining Unit 12 or 13, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier,

1 or during any other period of 36 consecutive months during his or
2 her state membership that the member designates on the application
3 for retirement.

4 (b) This section applies to service credit accrued while a member
5 of State Bargaining Unit 12 or 13.

6 (c) This section does not apply to:

7 (1) Former state employees previously employed before January
8 1, 2007, who return to state employment on or after January 1,
9 2007.

10 (2) State employees hired prior to January 1, 2007, who were
11 subject to Section 20281.5 during the first 24 months of state
12 employment.

13 (3) State employees hired prior to January 1, 2007, who become
14 subject to representation by State Bargaining Unit 12 or 13 on or
15 after January 1, 2007.

16 (4) State employees on an approved leave of absence employed
17 before January 1, 2007, who return to active employment on or
18 after January 1, 2007.

19 SEC. 5. Section 20037.9 of the Government Code is amended
20 to read:

21 20037.9. (a) Notwithstanding Sections 20035 and 20037, final
22 compensation for a person who *is employed by the state for the*
23 *first time and* becomes a state member of the system on or after
24 January 1, 2007, and is represented by State Bargaining Unit 16
25 or 19, means the highest average annual compensation earnable
26 by the member during the consecutive 36-month period
27 immediately preceding the effective date of his or her retirement,
28 or the date of his or her last separation from state service if earlier,
29 or during any other period of 36 consecutive months during his or
30 her state membership that the member designates on the application
31 for retirement.

32 (b) This section applies to service credit accrued while a member
33 of State Bargaining Unit 16 or 19.

34 (c) This section does not apply to:

35 (1) Former state employees previously employed before January
36 1, 2007, who return to state employment on or after January 1,
37 2007.

38 (2) State employees hired prior to January 1, 2007, who were
39 subject to Section 20281.5 during the first 24 months of state
40 employment.

1 (3) State employees hired prior to January 1, 2007, who become
2 subject to representation by State Bargaining Unit 16 or 19 on or
3 after January 1, 2007.

4 (4) State employees on an approved leave of absence employed
5 before January 1, 2007, who return to active employment on or
6 after January 1, 2007.

7 SEC. 6. Section 20037.10 of the Government Code is amended
8 to read:

9 20037.10. (a) Notwithstanding Sections 20035 and 20037,
10 final compensation for a person who *is employed by the state for*
11 *the first time and* becomes a state member of the system on or after
12 January 1, 2007, and is represented by State Bargaining Unit 7,
13 means the highest average annual compensation earnable by the
14 member during the consecutive 36-month period immediately
15 preceding the effective date of his or her retirement, or the date of
16 his or her last separation from state service if earlier, or during any
17 other period of 36 consecutive months during his or her state
18 membership that the member designates on the application for
19 retirement.

20 (b) This section applies to service credit accrued while a member
21 of State Bargaining Unit 7.

22 (c) This section does not apply to:

23 (1) Service credit accrued while classified as a state peace
24 officer/firefighter while a member of Bargaining Unit 7.

25 (2) Former state employees previously employed before January
26 1, 2007, who return to state employment on or after January 1,
27 2007.

28 (3) State employees hired prior to January 1, 2007, who were
29 subject to Section 20281.5 during the first 24 months of state
30 employment.

31 (4) State employees hired prior to January 1, 2007, who become
32 subject to representation by State Bargaining Unit 7 on or after
33 January 1, 2007.

34 (5) State employees on an approved leave of absence employed
35 before January 1, 2007, who return to active employment on or
36 after January 1, 2007.

37 SEC. 7. Section 20037.11 of the Government Code is amended
38 to read:

39 20037.11. (a) Notwithstanding Sections 20035 and 20037,
40 final compensation for a person who *is employed by the state for*

1 *the first time and* becomes a state member of the system on or after
2 January 1, 2007, and is represented by State Bargaining Unit 10,
3 means the highest average annual compensation earnable by the
4 member during the consecutive 36-month period immediately
5 preceding the effective date of his or her retirement, or the date of
6 his or her last separation from state service if earlier, or during any
7 other period of 36 consecutive months during his or her state
8 membership that the member designates on the application for
9 retirement.

10 (b) This section applies to service credit accrued while a member
11 of State Bargaining Unit 10.

12 (c) This section does not apply to:

13 (1) Former state employees previously employed before January
14 1, 2007, who return to state employment on or after January 1,
15 2007.

16 (2) State employees hired prior to January 1, 2007, who were
17 subject to Section 20281.5 during the first 24 months of state
18 employment.

19 (3) State employees hired prior to January 1, 2007, who become
20 subject to representation by State Bargaining Unit 10 on or after
21 January 1, 2007.

22 (4) State employees on an approved leave of absence employed
23 before January 1, 2007, who return to active employment on or
24 after January 1, 2007.

25 SEC. 8. Section 20037.12 of the Government Code is amended
26 to read:

27 20037.12. (a) Notwithstanding Sections 20035 and 20037,
28 final compensation for a person who *is employed by the state for*
29 *the first time and* becomes a state member of the system on or after
30 January 1, 2007, and is represented by State Bargaining Unit 18,
31 means the highest average annual compensation earnable by the
32 member during the consecutive 36-month period immediately
33 preceding the effective date of his or her retirement, or the date of
34 his or her last separation from state service if earlier, or during any
35 other period of 36 consecutive months during his or her state
36 membership that the member designates on the application for
37 retirement.

38 (b) This section applies to service credit accrued while a member
39 of State Bargaining Unit 18.

40 (c) This section does not apply to:

1 (1) Former state employees previously employed before January
2 1, 2007, who return to state employment on or after January 1,
3 2007.

4 (2) State employees hired prior to January 1, 2007, who were
5 subject to Section 20281.5 during the first 24 months of state
6 employment.

7 (3) State employees hired prior to January 1, 2007, who become
8 subject to representation by State Bargaining Unit 18 on or after
9 January 1, 2007.

10 (4) State employees on an approved leave of absence employed
11 before January 1, 2007, who return to active employment on or
12 after January 1, 2007.

13 SEC. 9. Section 20039.5 of the Government Code is amended
14 to read:

15 20039.5. Notwithstanding Article 5 (commencing with Section
16 20350) of Chapter 3, or any other provision of this part, “final
17 compensation” for the purposes of determining any pension or
18 benefit for service with the California National Guard with respect
19 to a National Guard member means the highest average annual
20 compensation that was earned *during a consecutive 12-month*
21 *period* while rendering service with the California National Guard.
22 The final compensation of a National Guard member under another
23 retirement or pension system shall not apply to the calculation of
24 his or her retirement allowance with respect to service with the
25 California National Guard.

26 SEC. 10. Section 20041 of the Government Code is repealed.

27 ~~20041. For a local member who is an employee of a contracting~~
28 ~~agency that, by the provisions of its contract with the board, is~~
29 ~~subject to Section 20043, and for no other member, “final~~
30 ~~compensation,” shall be subject to Section 20043, under which a~~
31 ~~member, who is afforded an election thereunder, but does not make~~
32 ~~the election, may have more than one final compensation.~~

33 SEC. 11. Section 20043 of the Government Code is repealed.

34 ~~20043. The entire compensation of a local member shall be~~
35 ~~included in any computation to be made under this part for service~~
36 ~~rendered as an employee of a contracting agency, the effective~~
37 ~~date of whose contract is on or after July 1, 1952, or whose contract~~
38 ~~on its effective date prior to July 1, 1952, contained an election to~~
39 ~~be subject to this section.~~

1 SEC. 12. Section 20069 of the Government Code is amended
2 to read:

3 20069. (a) "State service" means service rendered as an
4 employee or officer (employed, appointed, or elected) of the state,
5 the California Institute for Regenerative Medicine and the officers
6 and employees of its governing body, the university, a school
7 employer, or a contracting agency, for compensation, and only
8 while he or she is receiving compensation from that employer
9 therefor, except as provided in Article 4 (commencing with Section
10 20990) of Chapter 11.

11 (b) "State service," solely for purposes of qualification for
12 benefits and retirement allowances under this system, shall also
13 include service rendered as an officer or employee of a county if
14 the salary for the service constitutes compensation earnable by a
15 member of this system under Section 20638.

16 (c) "~~State service~~ service," *except for purposes of qualification*
17 *for health or dental benefits*, shall also include compensated service
18 rendered by an officer, warrant officer, or a person of the enlisted
19 ranks of the California National Guard who has elected to become
20 a member pursuant to Section 20326 and who has not canceled
21 his or her membership pursuant to Section 20327.

22 SEC. 13. Section 20164 of the Government Code is amended
23 to read:

24 20164. (a) The obligations of this system to its members
25 continue throughout their respective memberships, and the
26 obligations of this system to and in respect to retired members
27 continue throughout the lives of the respective retired members,
28 and thereafter until all obligations to their respective beneficiaries
29 under optional settlements have been discharged. The obligations
30 of the state and contracting agencies to this system in respect to
31 members employed by them, respectively, continue throughout
32 the memberships of the respective members, and the obligations
33 of the state and contracting agencies to this system in respect to
34 retired members formerly employed by them, respectively, continue
35 until all of the obligations of this system in respect to those retired
36 members, respectively, have been discharged. The obligations of
37 any member to this system continue throughout his or her
38 membership, and thereafter until all of the obligations of this
39 system to or in respect to him or her have been discharged.

(b) For the purposes of payments into or out of the retirement fund for adjustment of errors or omissions, whether pursuant to Section 20160, 20163, or 20532, or otherwise, the period of limitation of actions shall be three years, and shall be applied as follows:

(1) In cases where this system makes an erroneous payment to a member or beneficiary, this system's right to collect shall expire three years from the date of payment.

(2) In cases where this system owes money to a member or beneficiary, the period of limitations shall not apply.

~~(3) In~~

(c) *Notwithstanding subdivision (b), in cases where payment is erroneous because of the death of the retired member or beneficiary or because of the remarriage of the beneficiary, the period of limitation shall be 10 years and shall commence with the discovery of the erroneous payment.*

~~(e)~~

(d) Notwithstanding subdivision (b), where any payment has been made as a result of fraudulent reports for compensation made, or caused to be made, by a member for his or her own benefit, the period of limitation shall be 10 years and that period shall commence either from the date of payment or upon discovery of the fraudulent reporting, whichever date is later.

~~(d)~~

(e) The board shall determine the applicability of the period of limitations in any case, and its determination with respect to the running of any period of limitation shall be conclusive and binding for purposes of correcting the error or omission.

SEC. 14. Section 20195 of the Government Code is amended to read:

20195. (a) The board may select, purchase, or acquire in the name of the system, the fee or any lesser interest in real property, improved or unimproved, and may construct or remodel, and equip, an office building, including appropriate satellite structures, in the County of Sacramento, California, for its use and for the use of other state retirement systems excepting the State Teachers' Retirement System, other departments, boards, and agencies of the state, or appropriate private commercial entities as space may be available from time to time. The office building and satellite

1 structures shall conform to the Capital Master Plan if located within
2 an area subject to the plan.

3 *(b) The board may select, purchase, or acquire in the name of*
4 *the system, the fee or any lesser interest in real property, improved*
5 *or unimproved, and may construct or remodel, and equip, business*
6 *recovery centers in California for use by the system as an alternate*
7 *facility, emergency operations center, or data center that the board*
8 *determines is appropriate for disaster preparedness.*

9 ~~(b)~~

10 *(c) If the board acquires bare land, improvements shall be*
11 *constructed according to plans approved by the State Public Works*
12 *Board and Department of General Services.*

13 ~~(c)~~

14 *(d) If the board acquires land with improvements thereon, the*
15 *improvements shall be remodeled or completed in accordance with*
16 *plans approved by the State Public Works Board and Department*
17 *of General Services.*

18 ~~(d)~~

19 *(e) If condemnation of the property selected is necessary, the*
20 *board may elect to deposit the funds deemed necessary with the*
21 *Treasurer. The funds are appropriated for purchase of the selected*
22 *property subject to the Property Acquisition Law.*

23 ~~(e)~~

24 *(f) Work on all projects shall be done under contract awarded*
25 *to the lowest responsible bidder pursuant to bidding procedures*
26 *set forth in Part 2 (commencing with Section 10100) of Division*
27 *2 of the Public Contract Code.*

28 SEC. 15. Section 20221 of the Government Code is amended
29 to read:

30 20221. Each state agency, school employer, and the chief
31 administrative officer of a contracting agency or any other person
32 who its governing body may designate shall furnish all of the
33 following:

34 *(a) Immediate-written notice to the board board, in the manner*
35 *prescribed by the system, of the change in status of any member*
36 *resulting from transfer, promotion, leave of absence, resignation,*
37 *reinstatement, dismissal, or death.*

38 *(b) Any additional information concerning any member that the*
39 *board may require in the administration of this system.*

1 (c) The services of its officer and departments that the board
2 may request in connection with claims by members against this
3 system.

4 SEC. 16. Section 20228 of the Government Code is amended
5 to read:

6 20228. The board shall annually employ a certified public
7 accountant, who is not in public employment, to audit the financial
8 statements of this system. The term for which the board may
9 contract to employ a certified public accountant shall not exceed
10 five years. The board shall not contract to employ the same certified
11 public accountant for two consecutive five-year terms. The costs
12 of the audit shall be paid from the income of the retirement fund.
13 The audit shall be made annually. The board shall file a copy of
14 the audit report with the Governor, the Secretary of the Senate,
15 and the Chief Clerk of the Assembly.

16 The board, for purposes of Section 7504, may file internally
17 prepared financial statements with the Controller within six months
18 of the end of the fiscal year, and shall file independently audited
19 financial statements as soon as they are available.

20 The *annual audits of the financial statements of the system* shall
21 not be duplicated by the Department of Finance or the State
22 Auditor. ~~This~~

23 *This section does not affect the ability of the State Auditor or*
24 *the Department of Finance to conduct other types of audits of the*
25 *system as otherwise authorized by statute. This system shall be*
26 *exempt from a pro rata general administrative charge for auditing.*

27 SEC. 17. Section 20281.5 of the Government Code is amended
28 to read:

29 20281.5. (a) Notwithstanding Section 20281, a person who
30 becomes a state miscellaneous member ~~other than a National Guard~~
31 ~~member~~ or state industrial member of the system on or after the
32 effective date of this section because the person is first employed
33 by the state and qualifies for membership shall be subject to the
34 provisions of this section.

35 (b) Members subject to this section shall not accrue credit for
36 service in the system and shall not make employee contributions
37 to the system, including the contributions set forth in Section
38 20677.4, for employment with the state until the first day of the
39 first pay period commencing 24 months after becoming a member
40 of the system.

(c) Notwithstanding subdivision (a), this section shall not apply to any of the following:

(1) Persons who are already members or annuitants of the system at the time they are first employed by the state.

(2) Employees of the California State University, or the legislative or judicial branch of state government.

(3) Members of the Judges' Retirement System, the Judges' Retirement System II, the Legislators' Retirement System, the State Teachers' Retirement System, or the University of California Retirement Plan.

(4) Persons who are members of a reciprocal retirement system and whose employment was subject to a reciprocal retirement system within the six months prior to membership in this system.

(5) Persons whose service is not included in the federal system.

(6) Persons who are employed by the Department of the California Highway Patrol as students at the department's training school established pursuant to Section 2262 of the Vehicle Code.

(7) Persons who had ceased to be members pursuant to Section 20340 or 21075.

(8) *Persons who are National Guard members pursuant to Section 20380.5.*

(d) A separation of employment does not alter the 24-month period described by subdivision (b). A member who separates from state employment shall remain subject to this section if he or she returns to state employment as a state miscellaneous or state industrial member within that 24-month period.

(e) Any regulations adopted by the board to implement the requirements of this section shall not be subject to the review and approval of the Office of Administrative Law, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3. The regulations shall become effective immediately upon filing with the Secretary of State.

SEC. 18. Section 20305 of the Government Code is amended to read:

20305. (a) ~~An employee serving on a less than full-time basis whose appointment or employment contract does not fix a term of full-time, continuous employment in excess of six months is~~ excluded from this system unless:

1 (1) He or she is a member at the time he or she renders ~~less than~~
2 ~~full-time~~ *that* service and is not otherwise excluded pursuant to
3 this article or by a provision of a contract.

4 (2) His or her position requires regular, part-time service for
5 one year or longer for at least an average of 20 hours a week, or
6 requires service that is equivalent to at least an average of 20 hours
7 a week *for one year or longer*, unless he or she elects membership
8 pursuant to Section 20325.

9 (3) His or her employment is, in the opinion of the board, on a
10 seasonal, limited-term, on-call, emergency, intermittent, substitute,
11 or other irregular basis, and is compensated and meets one of the
12 following conditions:

13 (A) The appointment or employment contract ~~fixes~~ *does not fix*
14 a term of full-time, continuous employment in excess of six ~~months~~
15 ~~or, if a term is not fixed,~~ *months, but* full-time employment
16 continues for longer than six months, in which case membership
17 shall be effective not later than the first day of the first pay period
18 of the seventh month of employment.

19 (B) The person ~~works more than~~ *completes* 125 days, if
20 employed on a per diem basis or, if employed on other than a per
21 diem basis, *completes* 1,000 hours within the fiscal year, in which
22 case, membership shall be effective not later than the first day of
23 the first pay period of the month following the month in which
24 125 days or 1,000 hours of service were completed. For purposes
25 of this subdivision, “day” means each eight-hour period of
26 employment worked by an employee paid on a per diem basis so
27 that membership is effective after he or she has completed 1,000
28 hours of compensated service in a fiscal year.

29 (C) The person is employed by the Department of Forestry and
30 Fire Protection in one of the positions that provide state safety
31 membership pursuant to Section 20400 or state peace
32 officer/firefighter membership pursuant to Section 20392.

33 (4) He or she is a temporary faculty member of the California
34 State University and meets one of the following conditions:

35 (A) He or she works two consecutive semesters or three
36 consecutive quarters at half-time or more, and is not otherwise
37 excluded pursuant to this article, in which case, membership shall
38 be effective with the start of the next consecutive semester or
39 quarter if the appointment requires service of half-time or more.

1 (B) He or she works two consecutive semesters or three
2 consecutive quarters at a minimum teaching load of six weighted
3 units, and is not otherwise excluded pursuant to this article, in
4 which case membership shall be effective at the start of the next
5 consecutive semester or quarter, but not earlier than July 1, 2004,
6 if the appointment requires service of six weighted units or more.
7 This subparagraph does not apply to faculty members unless
8 provided for in a memorandum of understanding agreed upon, on
9 or after January 1, 2003, pursuant to Chapter 12 (commencing
10 with Section 3560) of Division 4 of Title 1, or authorized by the
11 Trustees of the California State University for employees excluded
12 from collective bargaining.

13 (5) He or she is a member of the Board of Prison Terms, the
14 State Personnel Board, or the State Air Resources Board and elects
15 to become a member pursuant to Section 20320.

16 (6) He or she is participating in partial service retirement,
17 pursuant to Article 1.7 (commencing with Section 19996.30) of
18 Chapter 7 of Part 2.6.

19 (7) He or she is included by specific provision of the board
20 relating to the exclusion of less than full-time employees.

21 (b) This section shall supersede any contract provision excluding
22 persons in any temporary or seasonal employment basis and shall
23 apply only to persons entering employment on and after January
24 1, 1975. Except as provided in Section 20502, no contract or
25 contract amendment entered into after January 1, 1981, shall
26 contain any provision excluding persons on an irregular
27 employment basis.

28 SEC. 19. Section 20475 of the Government Code is amended
29 to read:

30 20475. Notwithstanding Section 20474, a contracting agency
31 may amend its contract or previous amendments to its contract,
32 without election among its employees, to reduce benefits, to
33 terminate provisions that are available only by election of the
34 agency to become subject thereto, to provide different benefits or
35 provisions or to provide a combination of those changes with
36 respect to service performed after the effective date of the contract
37 amendment made pursuant to this section, if the contracting agency
38 has fully discharged all of the obligations imposed by Chapter 10
39 (commencing with Section 3500) of Division 4 of Title 1 with

1 respect to the contract amendments, and if the amendment provides
2 that:

3 (a) The contract amendments apply uniformly with respect to
4 all members within each of the following classifications: local
5 miscellaneous members, local police officers, local firefighters,
6 county peace officers, local sheriffs, *local safety members*, *school*
7 *safety members*, or all local safety members other than local police
8 officers, local firefighters, county peace officers, ~~or~~ local sheriffs,
9 *local safety members*, or *school safety members*.

10 (b) A member shall be subject to the contract as amended only
11 if, after the effective date of the contract amendment, the member
12 either (1) receives service credit for the first time within a
13 classification, or (2) the member returns to service within a
14 classification following termination of membership as provided
15 for in subdivision (b) of Section 20340 unless the member has
16 redeposited or elects prior to 90 days after returning to service to
17 redeposit contributions pursuant to Section 20750, in which case
18 the member shall not be subject to the contract amendment.

19 Amendments to the contract and amendments of previous
20 amendments to the contract may be effected pursuant to this section
21 only once during any three-year period with respect to each of the
22 classifications.

23 SEC. 20. Section 20479 of the Government Code is amended
24 to read:

25 20479. Notwithstanding any other provision of law, including,
26 but not limited to, Chapter 10 (commencing with Section 3500)
27 of Division 4 of Title 1, no contract or contract amendment shall
28 be made to provide retirement benefits for some, but not all
29 members of the following membership classifications: local
30 miscellaneous members, local police officers, local firefighters,
31 county peace officers, local sheriffs, ~~or~~ local safety officers, or
32 *school safety members*.

33 No contract or contract amendments shall provide different
34 retirement benefits for a subgroup, including, but not limited to,
35 bargaining units or unrepresented groups, within those membership
36 classifications.

37 This section does not preclude changing membership
38 classification from one membership classification to another
39 membership classification or exclusion of groups of members by
40 contract.

1 For purposes of this section, “benefit” shall not be limited to the
2 benefits set forth in Section 20020.

3 SEC. 21. Section 20636.1 of the Government Code is amended
4 to read:

5 20636.1. (a) Notwithstanding Section 20636, and Section
6 45102 of the Education Code, “compensation earnable” by a school
7 member means the payrate and special compensation of the
8 member, as defined by subdivisions (b) and (c), and as limited by
9 Section 21752.5.

10 (b) (1) “Payrate” means the normal monthly rate of pay or base
11 pay of the member paid in cash to similarly situated members of
12 the same group or class of employment for services rendered on
13 a full-time basis during normal working hours. ~~For noncertificated~~
14 ~~members, where the normal work schedule is less than purposes~~
15 ~~of this part, for classified members, full-time employment is 40~~
16 ~~hours per week, and payments for additional services rendered,~~
17 ~~not to exceed 40 hours per week, shall be reported as compensation~~
18 ~~earnable for all months of the year in which work is performed.~~
19 “Payrate,” for a member who is not in a group or class, means the
20 monthly rate of pay or base pay of the member, paid in cash and
21 pursuant to publicly available pay schedules, for services rendered
22 on a full-time basis during normal working hours, subject to the
23 limitations of paragraph (2) of subdivision (e).

24 (A) For the purposes of this section, ~~“noncertificated members”~~
25 ~~“classified members”~~ shall mean members who retain membership
26 under this system while employed with a school employer in
27 positions not subject to coverage under the Defined Benefit
28 Program under the State Teacher’s Retirement System.

29 (B) For the purposes of this section, and Sections 20962 and
30 20966, “certificated members” shall mean members who retain
31 membership under this system while employed in positions subject
32 to coverage under the Defined Benefit Program under the State
33 Teacher’s Retirement System.

34 (2) The computation for any leave without pay of a member
35 shall be based on the compensation earnable by him or her at the
36 beginning of the absence.

37 (3) The computation for time prior to entering state service shall
38 be based on the compensation earnable by him or her in the position
39 first held by him or her in state service.

1 (c) (1) Special compensation of a school member includes any
2 payment received for special skills, knowledge, abilities, work
3 assignment, workdays or hours, or other work conditions.

4 (2) Special compensation shall be limited to that which is
5 received by a member pursuant to a labor policy or agreement or
6 as otherwise required by state or federal law, to similarly situated
7 members of a group or class of employment that is in addition to
8 payrate. If an individual is not part of a group or class, special
9 compensation shall be limited to that which the board determines
10 is received by similarly situated members in the closest related
11 group or class that is in addition to payrate, subject to the
12 limitations of paragraph (2) of subdivision (e).

13 (3) Special compensation shall be for services rendered during
14 normal working hours and, when reported to the board, the
15 employer shall identify the pay period in which the special
16 compensation was earned.

17 (4) Special compensation may include the full monetary value
18 of normal contributions paid to the board by the employer, on
19 behalf of the member and pursuant to Section 20691, provided
20 that the employer's labor policy or agreement specifically provides
21 for the inclusion of the normal contribution payment in
22 compensation earnable.

23 (5) The monetary value of any service or noncash advantage
24 furnished by the employer to the member, except as expressly and
25 specifically provided in this part, shall not be special compensation
26 unless regulations promulgated by the board specifically determine
27 that value to be "special compensation."

28 (6) The board shall promulgate regulations that delineate more
29 specifically and exclusively what constitutes "special
30 compensation" as used in this section. A uniform allowance, the
31 monetary value of employer-provided uniforms, holiday pay, and
32 premium pay for hours worked within the normally scheduled or
33 regular working hours that are in excess of the statutory maximum
34 workweek or work period applicable to the employee under Section
35 201 et seq. of Title 29 of the United States Code shall be included
36 as special compensation and appropriately defined in those
37 regulations.

38 (7) Special compensation does not include any of the following:

39 (A) Final settlement pay.

1 (B) Payments made for additional services rendered outside of
2 normal working hours, whether paid in lump sum or otherwise.

3 (C) Any other payments the board has not affirmatively
4 determined to be special compensation.

5 (d) Notwithstanding any other provision of law, payrate and
6 special compensation schedules, ordinances, or similar documents
7 shall be public records available for public scrutiny.

8 (e) (1) As used in this part, “group or class of employment”
9 means a number of employees considered together because they
10 share similarities in job duties, work location, collective bargaining
11 unit, or other logical work related grouping. Under no
12 circumstances shall one employee be considered a group or class.

13 (2) Increases in compensation earnable granted to any employee
14 who is not in a group or class shall be limited during the final
15 compensation period applicable to the employees, as well as the
16 two years immediately preceding the final compensation period,
17 to the average increase in compensation earnable during the same
18 period reported by the employer for all employees who are in the
19 same membership classification, except as may otherwise be
20 determined pursuant to regulations adopted by the board that
21 establish reasonable standards for granting exceptions.

22 (f) As used in this part, “final settlement pay” means any pay
23 or cash conversions of employee benefits that are in excess of
24 compensation earnable, that are granted or awarded to a member
25 in connection with or in anticipation of a separation from
26 employment. The board shall promulgate regulations that delineate
27 more specifically what constitutes final settlement pay.

28 SEC. 22. Section 20962 of the Government Code is amended
29 to read:

30 20962. (a) One year of service credit shall be granted for
31 service rendered and compensated in a fiscal year in full-time
32 employment for any of the following:

33 ~~(a)~~

34 (1) One academic year of service for persons employed on an
35 academic year basis by the University of California, the California
36 State University system, or school employees who are certificated
37 members, under terms and conditions prescribed by the board.

38 ~~(b)~~

39 (2) Ten months of service for persons employed on a monthly
40 basis.

1 (e)

2 (3) Two hundred fifteen days of service after June 30, 1951,
3 and 250 days prior to July 1, 1951, for persons employed on a
4 daily basis.

5 (d)

6 (4) One thousand seven hundred twenty hours of service after
7 June 30, 1951, and 2,000 hours prior to July 1, 1951, for persons
8 employed on an hourly basis.

9 (e)

10 (5) Nine months of service for state employees represented by
11 State Bargaining Unit 3 and subject to the 9–12 pay plan or leave
12 plan, provided a memorandum of understanding has been agreed
13 to by the state employer and the recognized employee organization
14 to become subject to this subdivision. ~~A~~

15 (b) A fractional year of credit shall be given for service rendered
16 in a fiscal year in full-time employment for less than the time
17 prescribed in this section.

18 SEC. 23. Section 20967 of the Government Code is amended
19 to read:

20 20967. For the purpose of calculating retirement benefits based
21 on part-time service, except under Section 21381, compensation
22 earnable shall be taken as the compensation that would have been
23 earnable if the employment had been on a full-time basis and the
24 member had worked full time, *and shall conform to the definitions*
25 *given in Section 20636.1 for school members and Section 20636*
26 *for all other members.*

27 SEC. 24. Section 21117 of the Government Code is amended
28 to read:

29 21117. A state miscellaneous member or industrial member,
30 other than a university member, shall be partially retired for service
31 upon his or her written application to the board if he or she has
32 elected to participate in partial service retirement pursuant to
33 Article 1.7 (commencing with Section 19996.30) of Chapter 7 of
34 Part 2.6, ~~provided he or she is credited with 20 years of state~~
35 ~~service~~ and has attained the applicable normal retirement age as
36 prescribed by regulations of the board.

37 SEC. 25. Section 21118 of the Government Code is amended
38 to read:

39 21118. (a) A local member shall be partially retired for service
40 upon his or her written application to the board if he or she has

1 elected to participate in partial service retirement pursuant to
2 Sections 21110 through 21115, ~~provided, he or she is credited with~~
3 ~~20 years of state service and~~ *provided he or she* has attained the
4 applicable normal retirement age as prescribed by regulations of
5 the board.

6 (b) This section shall not apply to a contracting agency or its
7 employees until the contracting agency elects to be subject to it
8 by amendment to its contract made in a manner prescribed for
9 approval of contracts or in the case of a new contract, by express
10 provision of the contract. The operative date of this section with
11 respect to a local member shall be the effective date of the
12 amendment to his or her employer's contract electing to be subject
13 to this section.

14 SEC. 26. Section 21252 of the Government Code is amended
15 to read:

16 21252. (a) A member's written application for retirement, if
17 submitted to the board within nine months after the date the
18 member discontinued his or her state service, and, in the case of
19 retirement for disability, if the member was physically or mentally
20 incapacitated to perform his or her duties from the date the member
21 discontinued state service to the time the written application for
22 retirement was submitted to the board, shall be deemed to have
23 been submitted on the last day for which salary was payable. The
24 effective date of a written application for retirement submitted to
25 the board more than nine months after the member's discontinuance
26 of state service shall be ~~determined in accordance with Section~~
27 ~~20160~~ *the first day of the month in which the member's application*
28 *is received at an office of the board or by an employee of this*
29 *system designated by the board.*

30 (b) An application for retirement may only be submitted by or
31 for a member who is living on the date the application is actually
32 received by the system. If the member has been deemed
33 incompetent to act on his or her own behalf continuously from the
34 last day for which salary was payable, the effective date of
35 retirement may not be earlier than one year prior to the month in
36 which an application submitted by the guardian of the member's
37 estate is received by the system.

38 (c) Notwithstanding any other provision of law, a member who
39 separates from a retirement system that has established reciprocity
40 with this system with the intention of retiring concurrently under

1 both systems and who submits his or her application for retirement
2 for service to the board within nine months after that separation,
3 may have his or her application received and acted upon by this
4 system as if the application were submitted pursuant to this section.

5 SEC. 27. Section 21264 of the Government Code is amended
6 to read:

7 21264. Retired members of this system, and beneficiaries who
8 are entitled to receive allowances or benefits under this part, may
9 authorize deductions to be made from their retirement allowance
10 payments or from the allowances and benefits, respectively, or
11 from either or both ~~where if~~ both are being received, in accordance
12 with regulations *or procedures* established by the board for the
13 payment of group insurance premiums and other premiums for
14 benefits or protection provided for under Section 1151, including
15 employer-sponsored voluntary insurance programs, for credit union
16 payments or shares, or for the payment, with respect to *any* retired
17 ~~state members~~ *member* of this system, of dues ~~provided for under~~
18 ~~Section 1152~~ *or for any other services pursuant to Article 6*
19 *(commencing with Section 1150) of Chapter 1 of Division 4 of*
20 *Title 4.* The board shall determine the additional cost involved in
21 making deductions under this section and the state agency, the
22 public agency, the association, or the unit thereof, or the credit
23 union shall pay the amount of the additional cost to the board for
24 deposit in the retirement fund.

25 SEC. 28. Section 21296 of the Government Code is amended
26 to read:

27 21296. Retirement shall be effective and the retirement
28 allowance shall begin to accrue as of the date designated in the
29 nonmember's application as the effective date of retirement, or
30 the day following the date of court order dividing the community
31 property of the member and nonmember, if later. ~~In~~ *If the*
32 *retirement application is not received within nine months of the*
33 *requested effective date, in no event shall the retirement become*
34 *effective or the retirement allowance begin to accrue earlier than*
35 *the first day of the month in which the nonmember's application*
36 *is received at an office of the board or by an employee of this*
37 *system designated by the board, or, if the nonmember has been*
38 *incompetent to act on his or her own behalf continuously from the*
39 *date of dissolution or legal separation, one year prior to the month*
40 *in which an application by the guardian of his or her estate is so*

1 received. An application for retirement may only be filed by or
2 for a nonmember who is living on the date the application is
3 actually received by this system. *The effective date of a nonmember*
4 *application for retirement received more than nine months after*
5 *the requested effective date shall be determined in accordance*
6 *with Section 20160.*

7 SEC. 29. Section 21310.5 is added to the Government Code,
8 to read:

9 21310.5. The cost-of-living adjustments under Section 415(d)
10 of the Internal Revenue Code to the limits described in Section
11 415(b) of the Internal Revenue Code, as prescribed by the
12 regulations of the Department of the Treasury of the United States,
13 are hereby incorporated by reference and shall continue to apply
14 after a member's severance from employment or annuity starting
15 date. The amount payable to a member in any limitation year,
16 including any cost-of-living adjustments provided under this article,
17 shall not be greater than the limit applicable under Section 415(b)
18 of the Internal Revenue Code at the annuity starting date, as
19 increased in subsequent years pursuant to Section 415(d) of the
20 Internal Revenue Code and the associated regulations.

21 SEC. 30. Section 21753 of the Government Code is amended
22 to read:

23 21753. Notwithstanding any other provision of law, *and except*
24 *as provided in Section 21310.5*, the retirement allowance of a
25 member shall be increased to reflect cost-of-living adjustments to
26 the limits contained in Section 415 of Title 26 of the United States
27 Code as provided in Section 415(d) of that code, provided that the
28 member's allowance determined without regard to Section 415
29 equals or exceeds the applicable limit as indexed. Nothing in this
30 section is intended to, nor shall be construed to, entitle a retired
31 member to a cost-of-living adjustment to his or her allowance in
32 excess of that provided pursuant to Part 3 (commencing with
33 Section 20000).

34 SEC. 31. Section 22839 of the Government Code is amended
35 to read:

36 22839. Thirty days prior to, or ~~30~~ 60 days following, retirement
37 and during the open enrollment period, a state employee enrolled
38 in a flexible benefit plan administered by the state shall be given
39 the option to enroll in a health benefit plan approved or maintained

1 by the board and receive the applicable employer contribution, if
2 the state employee would otherwise qualify as an annuitant.

3 SEC. 32. Section 22864 of the Government Code is amended
4 to read:

5 22864. (a) Premiums charged for enrollment in a health benefit
6 plan shall reasonably reflect the cost of the benefits provided.

7 (b) This part does not limit the board's authority to do any of
8 the following:

9 (1) Enter into contracts with carriers providing compensation
10 based on carrier performance.

11 (2) Credit premiums to an employer for expenditures that the
12 board determines are likely to improve the health status of
13 employees and annuitants or otherwise reduce health care costs.

14 (3) Adjust the premiums charged under any health benefit plan
15 or contract to reflect regional variations in the cost of health care
16 services and other relevant factors. Any adjustment of these
17 premiums shall be at the sole discretion of the board and shall only
18 apply to the premiums charged to employees and annuitants of
19 contracting agencies. The board may require a contracting agency
20 and its employees and annuitants to pay the premium rate
21 established pursuant to this paragraph, which may be different
22 than the health benefit plan or contract premium rate that would
23 otherwise be applicable to that agency.

24 (4) *Use reserves generated by one or more self-funded health*
25 *benefit plans to reduce the premiums charged for enrollment in*
26 *one or more separate self-funded health benefit plans offered by*
27 *the board. The board, in its sole discretion, shall determine whether*
28 *a self-funded health benefit plan maintains reserves and the amount*
29 *of reserves to be used pursuant to this part.*

30 SEC. 33. Section 22960.15 of the Government Code is amended
31 to read:

32 22960.15. "Eligible employee" means any person employed
33 by the state, whose compensation is paid out of funds directly
34 controlled by the state, and who is subject to coverage by the plan
35 pursuant to the provisions of Section ~~23000~~ 22960.

36 SEC. 34. Section 75006 of the Government Code is amended
37 to read:

38 75006. (a) Any allowance payable to a retired judge or to a
39 surviving spouse or to an eligible surviving child which has accrued
40 and remained unpaid at the time of the judge's or the surviving

1 spouse's or surviving child's death, or any unclaimed warrant issued
2 prior to the date of death and returned to the system, shall be paid
3 *pursuant to the following order:*

4 ~~(a)~~

5 *(1) The survivor entitled to an allowance payable by this system.*

6 ~~(b)~~

7 *(2) The beneficiary designated by the surviving spouse, eligible*
8 *surviving child, or retired judge if there is no eligible survivor.*

9 ~~(c)~~

10 *(3) The estate of the deceased, if there is no one entitled under*
11 *subdivision (a) or (b) to payment under paragraph (1) or (2). The*
12 *payment to the estate shall be paid to either the estate of the*
13 *deceased or the duly authorized representative or representatives*
14 *of the estate when this system receives a court order appointing*
15 *an executor, administrator, or personal representative.*

16 *(4) If the estate does not require probate and the deceased has*
17 *a trust, the payment may, in the judgment of the board, be paid to*
18 *the successor trustee named in the trust.*

19 *(5) If the estate does not require probate and the deceased does*
20 *not have a trust, the payment may, in the judgment of the board,*
21 *be paid to the beneficiary or beneficiaries of the deceased named*
22 *in a valid will.*

23 *(b) If there is no qualifying beneficiary pursuant to paragraphs*
24 *(1) to (5), inclusive, of subdivision (a), the payment shall be paid*
25 *to the surviving next of kin of the deceased pursuant to the order*
26 *of distribution specified in Section 21493.*

27 SEC. 35. Section 75028.5 of the Government Code is amended
28 to read:

29 75028.5. After a judge has withdrawn his or her accumulated
30 contributions upon discontinuance of his or her service, that service
31 shall not count in the event he or she later becomes a judge again,
32 until he or she pays into the Judges' Retirement Fund the amount
33 of accumulated contributions withdrawn by him or her, plus interest
34 thereon at the rate of interest then being required to be paid by
35 members of the Public Employees' Retirement System under
36 Section ~~20654~~ 20750 from the date of withdrawal to the date of
37 his or her payment.

38 SEC. 36. Section 75080.5 is added to the Government Code,
39 to read:

1 75080.5. (a) Except as described in subdivision (b), if a person
2 who is retired under this system is appointed or elected to serve
3 as a judge, he or she shall reinstate from retirement and again
4 become a member of the Judges' Retirement System pursuant to
5 this chapter.

6 (b) This section shall not apply to a retired judge who is assigned
7 to serve in a court pursuant to Section 68543.5, and he or she shall
8 not earn service credit or be entitled to retirement benefits under
9 this part for that assignment.

10 SEC. 37. Section 75507 of the Government Code is amended
11 to read:

12 75507. (a) Any allowance payable to a retired judge or to a
13 surviving spouse or to an eligible surviving child that has accrued
14 and remained unpaid at the time of the death of the judge or the
15 death of a surviving spouse or surviving child, or any unclaimed
16 warrant issued prior to the date of death and returned to the board,
17 shall be paid *pursuant to one of the following order*:

18 ~~(a)~~

19 (1) The survivor entitled to an allowance payable by the board.

20 ~~(b)~~

21 (2) The beneficiary designated by the surviving spouse, eligible
22 surviving child, or retired judge if there is no eligible survivor.

23 ~~(c)~~

24 (3) The estate of the deceased, if there is no one entitled to
25 payment under ~~subdivision (a) or (b)~~. *paragraph (1) or (2). The*
26 *payment to the estate shall be paid to either the estate of the*
27 *deceased or the duly authorized representative or representatives*
28 *of the estate when this system receives a court order appointing*
29 *an executor, administrator, or personal representative.*

30 (4) *If the estate does not require probate and the deceased has*
31 *a trust, the payment may, in the judgment of the board, be paid to*
32 *the successor trustee named in the trust.*

33 (5) *If the estate does not require probate and the deceased does*
34 *not have a trust, the payment may, in the judgment of the board,*
35 *be paid to the beneficiary or beneficiaries of the deceased named*
36 *in a valid will.*

37 (b) *If there is no qualifying beneficiary pursuant to paragraphs*
38 *(1) to (5), inclusive, of subdivision (a), the payment shall be paid*

- 1 *to the surviving next of kin of the deceased pursuant to the order*
- 2 *of distribution specified in Section 21493.*

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